

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

UNITED STATES OF AMERICA)
)
)
)
v.) CRIMINAL ACTION NO.
)
) CR-04-PT-0199-S
)
)
McWANE, INC., et al.,)
)
)
Defendants.)

MEMORANDUM OPINION AND ORDER

The court presently rules that oral responses to inquiries by EPA and/or ADEM officials would be deemed “testimonial” under *Crawford v. Washington*, 541 U.S. 36 (2004), and subject to the Confrontation Clause holdings of *Crawford*. That such responses are “testimonial” is bolstered by the position taken by the Government in Counts 24 and 25. Business records, however, are not so governed. *See United States v. Garnett*, 122 F.3d 1016 (11th Cir. 1997).

This 20th of April, 2005.



ROBERT B. PROPST
SENIOR UNITED STATES DISTRICT JUDGE